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Offences



PART 1—Offences Relating to Narcotic Drugs

1. (i) Any person who imports or exports any narcotic drug with, a licence issued by the Secretary for Health for that purpose commits offence and shall on conviction be liable to imprisonment for not less than ten years.

(2) The Secretary for Health may grant a licence for the importation of if on an application made to him by such persons maybe prescribed he is satisfied that the licence can be properly granted.

(3) A licence may be granted under subsection (1) of this section subject to such conditions as the Secretary for Health may specify.

(4) Where a person imports any narcotic drug he shall within days of such import deliver to the Pharmacy Board the particulars of; drug imported.

2. (1) Any person who, without lawful authority, proof of which shall be on him, has in his possession or under his control any narcotic drug commits an offence.

(2) Any person found guilty of an offence under subsection shall on conviction be liable to imprisonment for a term of not less ten years.

3. (1) No person shall without lawful authority manufacture, produce or distribute .

(2) No person shall without lawful authority undertake any action for the purpose of establishing or promoting any enterprise relating .(3) A person who without lawful authority has in his possession; under his control any machine, equipment, tool, utensils or any other material or article for the manufacture, production, distribution, administration or use of narcotic drug commits an offence.

(4) Any person who commits an offence under this section and found guilty is liable on conviction to a term of imprisonment of not than ten years.

4. (1) No person shall without lawful authority, cultivate any plant which can be used or consumed as narcotic drug or from which narcotic drug can be extracted.

(2) Any person who contravenes subsection (1) commits an offence and is liable on conviction to imprisonment for a term of not less than ten years.

5. (1) No person shall without lawful authority or excuse smoke, sniff, consume, inject in his body or otherwise administer narcotic drug on his body.

(2) Any person who without lawful authority injects any person prohibited, with, or in any manner administers narcotic drug to any person commits an offence.

(3) A person convicted for an offence under subsection (1) or (2) is liable to be sentenced to imprisonment for a term of not less than five years.

6. (1) Any person who without lawful authority, proof of which Offence to shall be on him, supplies any narcotic drug to any person commits an offence.

(2) Any person who without lawful excuse buys dm8s-commits an offence.

(3) A person who commits an offence under subsection (1) or (2) of this section shall on conviction be liable to imprisonment for a term of not less than five years.

7. Where a court, in sentencing a person convicted under section 5(1) Special or section 6(1), finds that having regard to the unaggravated nature of the offence and any special circumstance relating to the offence or the offender, the imposition of the minimum sentence provided in respect of the offence is harsh, it may sentence the accused to a lesser term of imprisonment and in addition to a fine of not less than 0200,000.

8. (1) Where a person is convicted of an offence under this Part and Previous the Court finds that the person has been convicted on two previous occasions. for illegal importation, exportation, manufacture, distribution, cultivation, or supply of narcotic, drugs contrary to Part 1 of this Law, the court shall sentence the person to life imprisonment.

(2) A Magistrate Grade I or a District Tribunal may try and convict a person for an offence under this Part but shall commit the accused to an appropriate Court or Public Tribunal for sentence.

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9. (1) For the purposes of this Law narcotic drug means any of the Meaning of substances specified in the Schedules to this Law whether in its natural narcotic or synthetic form.

(2) The Secretary may by legislative instrument amend Schedules to this Law.

PART 2 —Offences in Relation to Property

10. (1) Any person who directly or indirectly deals in relation property within or outside Ghana—

(a) with the intention of promoting, managing, establishing or carrying on any activity which is an offence under Part 1 of this Law; or

(b) with the intention of facilitating or assisting in the promotion, management, establishment or carrying on any activity which is an offence under Part I of this Law commits an offence.

(2) A person is guilty of an offence under subsection (1) of the narcotic drug offence has been committed or any person has charged or convicted of the offence.

(3) A person convicted of an offence under subsection (1) this section is liable to be sentenced to imprisonment for a term of not less than ten years.

11. (1) No person shall possess any property or the proceeds of property knowing that all or a part of the property or of those proceeds was obtained or derived directly or indirectly from —

(a) the commission of a narcotic drug offence or

(b) an act anywhere which, if it had occurred in Ghana would have constituted a narcotic drug offence.

(2) Any person who contravenes subsection (1) commits an offence and shall on conviction be liable to imprisonment for not less than 10 years.

12. (1) No person shall use, transfer the possession of, send deliver to any person or place, transport, transmit, alter, dispose otherwise deal with, in any manner, any property or proceeds of property with intent to conceal or convert that property or those proceeds knowing that all or a part of that property or of those proceeds was obtained or derived directly or indirectly as a result of—

(a) the commission of a narcotic drug offence; or

(b) an act anywhere which, if it had occurred in Ghana, would have constituted a narcotic drug offence. (2) A person who contravenes subsection (1) is guilty of an offence and is liable on conviction to imprisonment for a term of not less than ten years.

13. (1) Where any person is convicted of an offence under Part I or Part II of this Law the court before which he is convicted shall confiscate or forfeit any equipment or property which is the subject matter of conviction, the offence or which has been used for the commission of that offence.

(2) No conveyance used for the commission of the offence shall be forfeited if the offence was committed by a person other than the owner or person in charge of the conveyance and it is proved to the court that the use of such conveyance for the commission of the offence was without the knowledge or consent of the owner or person in charge of the conveyance and was not due to any neglect, default, or lack of reasonable care by the owner or the person in charge of the conveyance.

14. Subject to subsection (2) of section 13 where it is proved to the Forfeiture satisfaction of a court that an offence under Part I or Part II has been committed, the court shall make an order for the confiscation or forfeiture of any equipment or property which is the subject matter of that or which has been used for the commission of that offence, notwithstanding that no person may have been convicted of the offence.

PART 3 Forfeiture of Property of Liable Persons

15. (1) Any person who—

(a) has been convicted of an offence under Part I or Part II proceeded of this Law or of a corresponding offence under a foreign law committed after the commencement of this Law; or

(b) who holds, conceals, receives or uses directly or indirectly any illegal property knowing or having reason to believe it to be illegal property, is liable to be proceeded against under this Part.

(2) A present holder of any property which was at any time previously held by a person referred to in paragraph (a) shall also be liable to be proceeded against under this Part, unless the present holder or any person who held the property before the present holder purchased the property in good faith for valuable consideration.

(3) Where a person referred to in subsection (1) or (2) is deceased, his personal representative, or where there is no personal representative any person who has a beneficial interest in the estate of the deceased may be proceeded against.

(4) No person shall be proceeded against under subsection (3) unless the Attorney-General has made an application to a court and the court after hearing the parties orders the person specified to be proceeded against.

(5) No proceedings against a liable person shall be instituted under this Part if there is pending against him in any court in Ghana any prosecution for an offence under Part I or Part II of this Law.

(6) Where during the pendency of proceedings against a liable person under this Part there is instituted against him in a court in Ghana any prosecution for any of the specified in subsection (5) of this section the proceedings in the court under this Part shall be stayed until the proceedings in respect of the prosecution have been finally concluded.

(7) Where any proceedings in a court against a liable person under this Part are prohibited from being instituted, or are stayed, under subsection (6) such prohibition or stay shall not—

(a) affect any earlier seizure or lawful exercise of any power of the Attorney-General or a police officer and any such act shall remain in force until the final conclusion of the proceedings under this Part; or

(b) prevent the further or continued exercise, or the fresh exercise by a police

officer or the Attorney-General of his powers in respect of that liable person.

16. (1) Where the Attorney-General has reason to believe that any person is a liable person, he may apply ex-parte to a court for an order of forfeiture of all the properties of which that person is a holder and which the Attorney-General has reason to believe are illegal properties. (2) The application, supported by an affidavit shall—

- (a) identify the liable person to be proceeded against, state his address of residence or business, if known, and other relevant particulars which are known;
- (b) state the grounds on which he is a liable person;
- (c) identify the properties to be forfeited, set out their estimated value, and, if known, their location; and (d) state any other matter, circumstance or information which, in the opinion of the Attorney-General, is relevant to the application.

17. (1) The court may on hearing the application of the Attorney-General under section 16(1), issue a notice on the liable person specified in the application, attaching the affidavit referred to in section 16 (2), and forfeiture, calling on the liable person to attend before the court on a date specified in the notice, which shall not be less than thirty days from the date of the notice, to show cause why all or any of the properties identified in the application should not be forfeited.

(2) Where a notice to any person under subsection (1) specifies any property as being held on behalf of the liable person by any other person, or as being transferred or sold to, or deposited or kept with, any other person, a copy of the notice shall be served upon such other person.

(3) Where before a notice is issued under subsection (1) the Attorney-General informs the court that the liable person referred to in his application has died before or after the application was filed, the notice shall be issued against the personal representative, and where there is no personal representative, against such beneficiary of his estate as may be specified by the court.

(4) The Attorney-General may at any stage of the proceedings under this section, apply to the court for an amendment of the notice.

(5) The court may, after giving the liable person an opportunity to be heard, make such order on the application as the court considers just and proper; where the court grants the application, whether with or without modifications, it may give such directions in the matter as it may consider necessary.

18. (1) Where—

(a) at the hearing of the notice to show cause, under subsection (1) of section 17, the person against whom the notice was issued fails to appear and the court is satisfied that he could not be served or that he has absconded or is outside Ghana and cannot be compelled to attend before the court; or

(b) at any time during the proceedings, the person affected fails without reasonable cause to attend the proceedings, the proceedings shall be continued in his absence.

(2) The court, at the conclusion of the proceedings under this section shall record a finding—

(a) whether or not any property specified in the application

illegal property; and

(b) whether or not the liable person is the holder of the illegal property.

(3) Where the court records a finding that any of the property specified in the application made by the Attorney-General is illegal prop and that the person named in the application is the holder of the illegal property, it shall order that such property be forfeited subject to the provisions of this Part.

(4) Where the court finds that all or any of the properties specified in the Attorney-General's application are illegal properties but that person affected is not the holder of the property, then whether or not court finds the person affected to be a liable person the court shall order that the property be forfeited, unless another person claims to be lawfully entitled to it as a purchaser in good faith for valuable consideration or Attorney-General informs the court that he intends to make a fresh application in respect of the illegal property against a liable person other than the person to whom the application relates.

(5) Where another person claims under subsection (4) to be lawfully entitled to the illegal property as a purchaser in good faith for valuable consideration the court shall proceed to consider such claim, and if, after giving an opportunity to the Attorney-General to rebut the claim, the court is satisfied that the person is not a purchaser in good faith for valuable consideration, it shall order that the property be forfeited

19. (1) Where the court is satisfied that any property which it ordered to be forfeited under section 18—

(a) cannot be located or traced;

(b) has been transferred to a purchaser in good faith for valuable consideration;

(c) is located outside Ghana;

(d) has been intermingled with other property which can be separated or divided without difficulty; or

(e) has been diminished in value,

the court shall make an order in accordance with subsection (2) of section.

(2) The court shall order that—

(a) any property of the liable person be forfeited to the value of any property referred to in paragraphs (a), (c) or (d) of subsection (1) or, in the case of property referred to in paragraph (b) or (e) of subsection (1), to the extent of the purchase price, or to the extent to which it has been diminished in value as the case may be; and (b) where there is no other property available for forfeiture, or where the value of the property ordered to be forfeited is less than the value of the property originally ordered to be forfeited, an amount be forfeited equal to the full value of the property originally ordered to be forfeited.

(3) If the liable person fails to pay the amount specified in sub-section (2) within a

period not exceeding thirty days from the date of the order, the court shall sentence to imprisonment for a term of not less than five years and not more than ten years.

(4) Where the person, in respect of whose property an order of forfeiture under section 18 has been made, dies before or dies after the order is made, the order shall have effect against the estate of the deceased in the same manner as it would have had against him and his property.

(5) No order for payment of an amount shall be made against the personal representative of the estate of the deceased or any beneficiary of such deceased if no property in the estate of the deceased is available for forfeiture or for payment of the amount.

(6) For the purpose of this section, the value of any property, shall be its market value at the date on which the order was made, or such value as may be determined by a person qualified to assess the value of such property.

(7) In the event of any dispute over the value of any property the court shall determine the value after hearing representation by the person affected and the Attorney-General.

20. (1) Any dealing, contract, or other thing effected, done, or entered into, by any person or between any persons after the issue of a notice to show cause under section 17 (1) in respect of any property referred to in, void, or affected by the said notice shall be null and void, and shall not be registered or otherwise given effect to by any person or authority.

(2) Until the proceedings under this Part in respect of the notice under section 17 have been concluded—

(a) no action, suit or other proceedings of a civil nature shall be instituted or if it is pending, be continued in any court or before any authority against the person named in the notice or in respect of whose estate or property the notice is issued, or in respect of any property referred to in, or affected by the notice; and

(b) no attachment, execution or other similar process shall be commenced, or if it is pending, be continued with against the person or in respect of any property on account of the claim, judgment or decree, whether the claim was made or the judgment or decree was given before or after the notice was issued; except at the instance of the State or except with the prior consent in writing of the Attorney-General.

21. (1) Proceedings under this Part shall not abate upon the death of the person affected but shall be continued to their final conclusion, whether or not such death results from the execution of a sentence of death for any offence under any law and whether or not the offence is related to or involves any narcotic drug, and where proceedings under this Part are instituted against a person who is under a sentence of death those proceedings shall not impede, delay or in any manner or for any reason affect the process for the execution of the sentence.

(2) Where the liable person dies before the conclusion of any proceedings under this Part, but after the issue of the notice against him under section 17 (1), the proceedings shall be continued against the personal representative of the deceased liable person or, if there is no such personal representative, against such beneficiary of the estate of the deceased liable person as may be specified by the court upon application by the Attorney-General.

(3) Where at any time after any specification of a beneficiary has been made by a court under section 15 (4) or by a court under section 17 (3) and, representation to the estate of the deceased has been duly taken out, the Attorney-General shall apply to the court for the personal representative to be substituted for the beneficiary, and the court shall order accordingly, after giving an opportunity to the said beneficiary or the personal representative to be heard.

(4) In making an order under subsection (3) the court may give all such directions of transitional, incidental or ancillary nature as it may consider necessary.

22. Proceedings under this Part shall be dealt with by the High Court, Proceed- the National or Regional Public Tribunal in the exercise of their criminal jurisdiction and the law relating to criminal procedure in the Court or Public Tribunal shall apply.

23. Any police officer may arrest without warrant any person whom Power of he reasonably suspects to have committed or to be committing an offence and under this Law, and shall as soon as possible thereafter put the arrested person before a magistrate or the Public Tribunal.

24. (1) Whenever it appears to any authorised police officer that there is reasonable cause to suspect that in or on any premises, there is concealed or deposited any property liable to forfeiture under this Law or to which an offence under this Law is reasonably suspected to have been committed, or any book or document directly or indirectly relating to or connected with any dealing, or intended dealing, whether within or outside Ghana in respect of any property liable to seizure or forfeiture under this Law or which would, if carried out be an offence under this Law, he may at any time—

(a) enter such premises and there search for, seize and detain, any such property, book or document;

(b) search any person who is in or on such premises, and for the purpose of such search, detain such person and remove him to such place as maybe necessary to facilitate such search;

(c) arrest any person who is in or on such premises in whose possession any property liable to seizure or forfeiture under this Law is found, or whom the officer reasonably believes to have concealed or deposited such property,

(d) seize and detain any book or document found in or on such premises or on such person;

(e) break open, examine, and search, any article, container or receptacle;

(f) stop, search and detain any conveyance.

(2) The officer may if is necessary—

(a) break open any outer or inner door or window of such premises and enter;

- (b) forcibly enter such premises and every part thereof;
 - (c) remove by force any obstruction to the entry, search, seizure or removal as he is empowered to effect;
 - (d) detain every person found in or on such premises, until such premises have been searched.
- (3) The provisions of subsection (1) and (2) shall not apply in relation to banker's books in a bank.

25. (1) An authorised police officer may search or cause to be person. searched, any person whom he has reason to believe has on his person any property liable to seizure or forfeiture under this Law or any article necessary for the purpose of any investigation under this Law.

(2) For the purposes of a search referred to in subsection (1) the authorised Police officer may detain that person for such period as may be necessary to have the search carried out, which shall not in any case exceed twenty-four hours, without the authorisation of a magistrate, and may remove him in custody to anyplace necessary to facilitate the search.

(3) A search of a person under this section may extend to a medical examination of his body, both externally and internally, by a medical officer.

(4) No female person shall be searched under this section or under section 15 except by another female. Obstruction of inspection and search.

26. Any person who—

- (a) refuses any police officer, authorised to enter or search, access to any premises or fails to submit to search by a person authorised to search him;
- (b) assaults, obstructs, hinders or delays him in effecting any entrance in the execution of any duty imposed or power conferred by this Law.
- (c) fails to comply with any lawful demand of any authorised police officer in the execution of his duties under this Law;
- (d) refuses or neglects to give any information which may reasonably be required of him and which he has power to give;
- (e) fails to produce or conceals or attempts to conceal any property, document, or book in relation to which there is reasonable ground for suspecting that an offence has been or is being committed under this Law, or which is liable to seizure under this Law;
- (f) rescues or endeavours to rescue or causes to be rescued anything which has been duly seized;
- (g) furnishes to any officer as true, information which he knows or has reason to believe to be false; or (h) before or after any seizure, breaks or otherwise destroys anything to prevent the seizure or securing of that thing; is guilty of an offence and liable on conviction to a fine not exceeding (£200,000.00 or to imprisonment for a term not exceeding two years or both.